IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6037 of 2006
Date of decision:9.10.2006

M/s Atam Valves P. Limited, Jalandhar

....Petitioner

versus

The Addl. Commissioner of Income Tax Range II, Jalandhar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Akshay Bhan, Advocate, for the petitioner.
Dr. N.L.Sharda, Advocate, for the respondents.

JUDGMENT:

1. This petition seeks quashing of order dated 2.11.2005, Annexure P.13, whereby case of the petitioner has been assigned to ITO-II (3), Jalandhar.

2. Case of the petitioner is that survey was carried out under section 133A of the Income Tax Act, 1961 (for short, 'the Act') on 27.9.2005 at the premises of the petitioner and books of accounts and other documents were impounded. Thereafter, notice under section 131 of the Act was issued to the petitioner which was contested by the petitioner. The petitioner also sought copies of documents seized which were offered by the department on certain conditions. On 26.12.2005, notice under section 143 (2) was issued asking the petitioner to appear before the assessing officer with record. The petitioner objected to its case being taken for scrutiny, which as per the stand of the department, was in terms of para 2(b) of the instructions, Annexure P.11.

3. In the reply filed, stand of the department is that case was assigned to ITO-II(3), Jalandhar as the ACIT, Range-II was burdened with a huge pendency of Time Barring cases. ITO-II(3) was authorised officer for survey under section 133A and was aware of facts regarding stock taking and loose papers seized.

4. We have considered the rival submissions and perused the record.

5. Section 127 of the Act provides for transfer of a case from one assessing officer to another and when such transfer is in the same city, no opportunity of hearing is required to be given. The Additional Commissioner, who is competent to pass order of transfer, has given the reasons for transfer of case of the petitioner from one assessing officer to the other. The said reasons cannot be held to be illegal or arbitrary or malafide so as to call for interference under Article 226 of the Constitution.

6. The writ petition is dismissed.

(Adarsh Kumar Goel)
Judge

Oct.9 2006 (Rajesh Bindal)
'gs' Judge